

Weare Conservation Commission

Final Minutes

January 12, 2005

In attendance were: Steve Najjar, Tom Carr, Andy Fulton, Andrea Alderman, Pat Myers, and John Ciampi.

Guests included: Ron Rivard, Frank Bolton, Peter Julia, and Paul Morin.

Tom Carr called the meeting to order at 7 PM.

1. Minutes of December 8, 2005: John Ciampi read the minutes of last month's session, and the corrections were as follows: Page 4, 17th line down, 1st word, correct the typographical error; same page, 19th line down strike "and a shorter road" at the end of the sentence; page 6, title #5, last bullet, last line, change the final sentence to read "to resurvey and mark the easement behind these units; page 7, 4th bullet, add as a final sentence "Andrea will follow up on this and make the purchase"; same page, 7th bullet, 3rd line, rewrite to read "agreement was to receive \$15,000 in lieu of substituting 6000sq. ft. for mitigation purposes". Pat made motion to accept these minutes as amended, and Andrea 2nd. All voted to accept the minutes as amended, except for 1 abstention (Andy). Motion carried and the minutes of January 12th, 2005 became officially recorded.

2. Wetland Applications and/or Discussions:

- Ron Rivard, lot 406/67, has applied for an expedited application for a driveway off River Rd. This drive has a 27% grade, and is currently under construction. The question brought to the Commission is if it would be allowable to impact 1,025 sq. feet of wetlands resulting from re-configuring the drive in order to lessen the driveway grade. Tom called Dory Wiggan, of the Wetland Board, to review this site plan, and she agreed that a hazard existed because of the originally proposed grade. Tom stepped down from further involvement in this discussion because of professional engagement, in which Andy took over as his position as vice chair. At this point, Mr. Rivard presented his plan in which he acknowledged that if the drive were changed, the grade would be reduced to 15%, making the slope less dangerous. Pat asked how a building permit could be issued with such a steep grade, and Mr. Rivard responded that he applied for and received a permit, going through the usual channels. Pat then asked if this issue should have been estimated beforehand. She felt that the Commission is being forced to allow a wetland permit for something that should never have evolved this way in the first place. Ron said that he agreed with Pat's statement, but he didn't know initially how the project would develop, and he applied for the permit before last's year's town meeting, and because of surveying problems, it wasn't approved until last May, so he lost out on the 10% rule. At this juncture, Paul Morin, of the Planning Board, spoke on this issue by saying when a new ordinance is introduced, there is a period of time in which people are unaware of it, or, as in Mr. Rivard's case, entered the process with the old rule, and exited the process with the new rule. Andy asked that if the new rule wasn't passed, would the initial proposal have occurred. To which Paul replied that the initial proposal was too dangerous, for example, to allow emergency vehicle usage, so the emphasis here is on the greater good, i.e. to allow crossing the wetland. Although Paul stated that the Commission is not compelled to sanction this request, he hopes the "greater good" argument prevails. Pat asked Mr. Morin if the fire department reviewed the original proposal, since this "steep slope" issue has been ongoing long before the more recent ruling. To which he responded that a certain situation is reviewed from various angles and a decision is reached as being the right thing to do in most cases. Andy asked Paul as to what phase of the permitting process should something as this be found and corrected, to which Paul replied that everyone needs to apply for a driveway permit, and just above the signatory line is written "10% maximum grade". Paul continued that this 10% rule is new, and the Planning Board is trying to become more comfortable with administering it. Andy asked if there are any lots on record deemed unbuildable, and Paul replied "no", because if a lot has a drive greater than 10%, the applicant needs to demonstrate "best practice" because the intent is to compel everyone to build the most suitable access in event of emergency. Steve asked Mr. Rivard if the drive couldn't come through his other nearby lot, since avoidance of wetland

disturbance should be of paramount consideration, but upon examination of the site plan, it was apparent the map was improperly marked with the wrong lot number. Andy stated that adjacent lot number 405/47.7 should be also be included on the permit application because there will be construction in the wetland on that lot also. Pat, directing her question to Paul Morin, asked how a mistake in estimating slope grade could be prevented on future lots. Paul responded that Carl Knapp issues a driveway permit clearly stating that this is the requirement, and also when the building inspector arrives to inspect the foundation will take note of the driveway grade, and if there's a discrepancy can head it off. Pat commented, from an environmental perspective, this process isn't working, whereas Paul replied that we need to figure out the best way to handle these situations. Pat then suggested if it would help the situation if slope consideration were taken into account during the very initial phase of the permit process, to which Paul responded that admittedly this plan did in fact fall through the cracks, and the Planning Board is not yet fully "in the groove" of initially considering driveway grade. Recommendations to the Wetlands Board will be to add both lots in which the wetland will be impacted, change the improperly numbered lot numbers to their correct designation, and provide signatures to accompany these changes. Steve made motion that the WCC sign off on the expedited application. Andrea 2nd and all voted in favor to support this permit.

- Frank Bolton is here this evening to discuss his sizing proposal, and for sake of reference, will be re-recorded as thus: *In order to preserve rural character and open space, shall the town amend its zoning ordinance to (a)increase the lot size on future lots on rural agriculture districts from the current 2 acres to a minimum 5 acres, and (b)to increase the rural agriculture frontage from 200' to 300', and (c)to increase the minimum lot size on future lots on conservation overlay districts from the current 4 acres to a minimum of 10 acres. If there is a conflict, the higher minimum shall be required.* Frank stated that the rural agricultural zoning covers about 60% of the town, and he mentioned that he visited Weare's bordering towns, and discovered that Deering, Goffstown, and New Boston all have zoning ordinances similar to Weare with some variations. Francistown has a minimum of 3 acres, 300' frontage; Hopkinton is 2 ¾ acres, 300' frontage; Henniker is 5 acres, 125' frontage; and Dunbarton is 5 acres, 300' frontage. So Frank mentioned that what he is proposing is not inconsistent with other towns. However, Frank stated that his proposal is a hard sell without the Planning Board's approval, and he feels they will not give this proposal their nod. Mr. Bolton stated that there will obviously be some fiscal fallout from his proposal, and he mentioned that one advantage of it is that he believes it would encourage cluster developments. Frank handed out a fact sheet documenting Weare's building permit data from 2003, and a 2000 census data comparison to the abutting towns. Mr. Bolton feels what the town needs now is a 10 year moratorium on building permits, but realistically he knows this won't happen. Frank is present this evening to ask the WCC to support his proposal. Steve spoke and stated that looking at the draft master plan, he felt there is a statement in there about modifying the zoning, and feels that Frank's proposal isn't inconsistent with what is in the draft, and also that it is consistent with the objectives of the WCC pertaining to minimizing land fragmentation. Steve continues to say that another nice thing about a minimum 5 acre lot size is that it would definitely ensure much more open space and he feels there are definitely more advantages than disadvantages in this proposal. Pat asked Frank how would cluster developments serve to lower residential impact, for instance in the schools, if clusters, by definition, are actually denser, and he responded that the same number of lots that would be allowed on a 100 acre parcel with 5 acre zoning would be the same with cluster, only situated closer. Paul added that the Planning Board would take recommendations from the WCC to determine if the developer would have to cluster. Frank then stated that the GMO's currently being proposed would certainly help to limit the rampant growth, however he feels that the GMO's probably will be challenged at some point in time. Andy asked Frank that if his proposal doesn't meet Planning Board approval, would it go to petition, to which Frank stated it is a petition already. Frank mentioned he met with Planning once already, and he wasn't encouraged by that Board. Paul chimed that the Planning Board will vote, at their next meeting, whether or not to support Mr. Bolton's proposal before it goes to ballot. Pat asked if there might be some disadvantages through controlling growth by proposals and ordinances, and Tom replied that this could open the door for lawsuits. Andy spoke up and said there's a flip side to what Tom just said, to which the WCC is held directly accountable, and that is the water supply issue which would in itself suggest a limit to growth density. Pat stated that there are more issues involved than waste

disposal and water supply. Steve mentioned that the general landscape should be divided into residential and rural agricultural districts and they should have different requirements for each, so he feels there's more involved than just lot size. Tom added that because of his professional work in this field, that although he is in favor of land preservation, can also understand the point of view of the landowner and developer. Paul asked if this were a matter of having the fewest houses, or is this more complicated issue. Paul also pointed out that if you have a lighter housing density, shops would be less likely to develop here in order to provide for local necessities. Paul continued that the marrow on this issue is that everyone in town doesn't share a common vision, as contradistinguished of those attending this evenings meeting. Paul goes on to say that the Planning Board has learned a great deal about designing cluster regulations, but more work has to be done. Paul generically asked, "How does one define 'rural character'?" Is it one house every 300'?" Paul said that he has always been a proponent of low, medium, and high density development, but currently this doesn't exist, it's fairly uniform. And Paul continued that he felt Chuck's proposal, although it carries some merit, is premature because the consequences, at this point, are unknown. Frank added that unless something isn't done soon, Weare is likely to become another Derry, Londonderry, Goffstown. Steve added his support to larger minimum lot size by pointing out that from a biological perspective, there's a big advantage because any residual land would have a larger ratio of house to acreage, and hopefully this land would be unfragmented. A motion was made by Steve to state that the WCC supports Frank's proposal, and also asks the Planning Board to support it. 2nd by Pat. Four members voted in the affirmative.

- Peter Julia, of Brown Engineering, proposes a conceptual subdivision on lot 412/88 off River Rd. Mr. Julia is here this evening to present a reconfigured plan to the Commission. The original cluster plan as presented to the Planning Board and WCC was not agreeable by either entity. Mr. Julia then presented the Commission with a standard subdivision model. This conventional plan reduces the number of lots from 18 to 13. Soil analysis allows for 19 lots, but because topography and geometry, lends itself to fewer lots. Mr. Julia pointed out that the roadway length is exactly the same with the conventional as with the cluster, which is 3330'. Peter went on to say that this plan would comply with all the current regulations except for the 10% road grade, which he believes is 11%. The limiting factor with this design is the road frontage. Andrea asked Peter if there would be more wetland impact with the conventional design and Peter responded that there would be more by about 100sq. ft. All the wetlands on the property are forested and some have standing water. Nancy Rendall performed the wetland analysis in which she indicated there are at least 2 vernal pools located on the property. Steve pointed out that the problem he sees is the carving up of the wetlands, which would still exist after development, but would be functionally dead. Mr. Julia indicated that there is only one wetland hydrology which is interconnected, and the remainders are all independent of each other. Andy stated that he doesn't see much of a footprint difference between either one. Pat stated that she isn't comfortable not being able to have access to the wetland areas, to which Steve replied that once the property is developed, the wetlands will lose their value as far as habitat is concerned because protection of wetland species only extends to the jurisdictional line. Tom pointed out that the totals of wetland impact are well below mitigation requirements which kick in at 10,000 sq. ft. of impact. From this point discussion ensued around function ability of the property wetlands and ease of accessibility to the open space buffer areas. Pat spoke upon the fact she wouldn't want an easement on this property because it would be too difficult to monitor, wherein Andy chimed that even under a standard development nature would take its course and the wetlands wouldn't need to be monitored. Steve forwarded that no matter the design, the open space will be fragmented and there isn't much that can be done about that. In conclusion, the Commission was basically split between favoring a standard or cluster subdivision.

3) Wetland Bureau Actions:

- DES file number 2004-02783, on 29 Depot St., map 412/124, occurring on property of Russell Freeman, there is a wetland violation for filling in an intermittent stream and associated wetland.
- DES file number 2004-02552, on Forest Rd., map 411/289, property of Michael Lafleur, was approved for access to a single family home.

- DES file number 2004-02882, map 407/141, property of N.H. Fish and Game on Perkins Pond, complete forested notification.
- DES file number 2004-02338, Abijah Bridge replacement. There is a request for more information and notification of public hearing scheduled for 1/5/05 at 10 AM.

4) Planning Board Issues:

- Brett and Linda Merrill, and Mike and Catherine Lantiegne, LLA and subdivision on Thorndike Rd., Purpose of this plan is to adjust the lot line between the assessors map # 404, lots 106 & 107, to further subdivide the two new lots. Comment to Planning is that this plan needs a wetland certification.
- Francis A. Bolton Jr. LLA on East Rd. Purpose is to annex parcel A from tax lot 203/98 to tax lot 203/98.004. Parcel A is not to be considered a separate lot of record. No comment to the Planning Board.

5) Other Items:

- The Hemlock Dr. proposal was brought to the attention of the BOS to gain access to landlocked lot 401/79 over lot 401/118, which is town property. The purpose is for residential development. The WCC does not recommend granting access through this property because: **a-** there are wetland impacts on the town owned parcel; **b-** there is an abundance of landlocked parcels in this vicinity which is of high priority for the WCC and WOSC to place under land conservation; **c-** this area is prime wildlife habitat; **d-** there are two other protected parcels abutting these landlocked properties.
- Abijah Bridge update: lots 31 and 20 are located on the prime wetland, and there's no chance to have further development there. Tom Carr and Margaret Watkins, of the PWA, are considering doing research to try and find out who owns the lots, what they are worth, and possibly buying them. The N.H. Fish and Game is concerned about these lots because they would prefer to see the prime wetland surrounded by conservation land. Pat asked "whatever happened to the idea of revoking the subdivision permit?" Tom replied "it's not likely to happen because the permit is very old". Then Pat added "it seems like a paper subdivision". Tom asked if anyone would be willing to research the deeds of the properties on the wetland, and Andrea volunteered. The properties involved are 404/ 29 thru 34, and 407/4 thru 9, and 17 thru 20.
- Open Space Committee update given by Andrea, who stated that Paul Doscher, of the Forest Society, will also be the resident speaker, and Digit Taylor requires a \$150.00 fee for speaking at the Open Space Forum. Discussion then prevailed as from which account this fee shall be withdrawn. Steve asked how the refreshments for this event will be funded. Steve then made a motion stated thusly, "Shall the WCC pay the Center for Land Conservation to speak at the Open Space Forum?" Andy 2nd the motion, and all members agreed, and the motion carried. Steve's 2nd motion is stated thusly, "If allowable by town rules, could the WOSC utilize funds of up to \$50.00 to pay for refreshments at the Open Space Forum?" 2nd by Andy. All members approved and the motion carried.
- Collins Landing Boundary Line Issue: John sent out an FYI e-mail giving an update on the boundary lines on the Collins Ledge easement, explaining that there are some sections of this easement in which the boundary markers are no longer distinguishable, due to marker ribbons that have disintegrated, blazed trees that have fallen over, rods that have been covered over, etc. John called Art Siciliano, local land surveyor, who advised having the property resurveyed properly, with monuments, drill holes, etc. Art is willing to do the work but he added it would cost several thousands of dollars. The query before the Commission is how to rectify this point in question. There was no finalization of discussion on this matter this evening, and it will be brought up again for further discussion.
- Bolton Property Appraisal: Pat submitted the Bolton Property Appraisal to the Commission this evening for their review.

Adjournment – Andy made motion to adjourn, and Steve 2nd. All voted to adjourn. With no further business to conduct this evening, the meeting adjourned at 11:16 PM.

Respectfully submitted,

cc: BOS
WCC files
Town Clerk

John Ciampi

